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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,434	04/20/2004	J. Charles Headrick	H040 1112.1	5364

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EXAMINER	
EPPES, BRYAN L	

ART UNIT	PAPER NUMBER
3635	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/828,434

Applicant(s)

HEADRICK ET AL.

Examiner

Bryan Eppes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

The office action is in response to the preliminary amendment filed 10/03/2007. Claims 1-21 are pending. Claims 13-17 have been withdrawn.

DETAILED ACTION

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows: This application is claiming the benefit of prior-filed nonprovisional application Nos. 09/825,033 and 09/412,909 under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior applications are required. Since the applications are not copending, the benefit claim to the prior-filed nonprovisional applications is improper. Applicant is required to delete the reference to the prior-filed applications from the declaration, unless applicant can establish copendency between the applications.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. Patent 6,260,315).

a. Claim 1. Smith '315 discloses a ridge vent comprising an elongated flexible (Col. 5 Line 59) top panel 22 having a central portion and edges, wind baffles 24 and 26

extending along the top panel outboard of the edges and defining openings between, a plurality of ribs 68 spanning the opening, and at least one score line A, B, or C extending laterally across the top panel (Col. 11 ¶ 2).

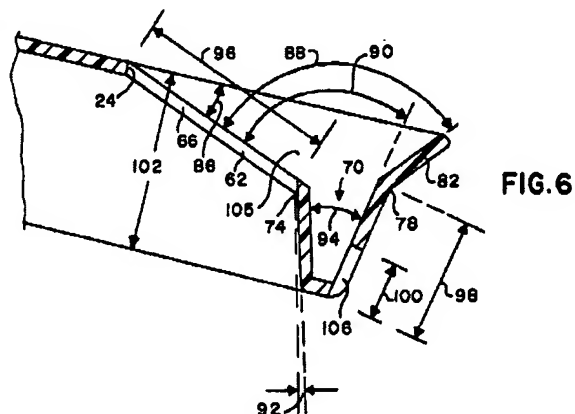
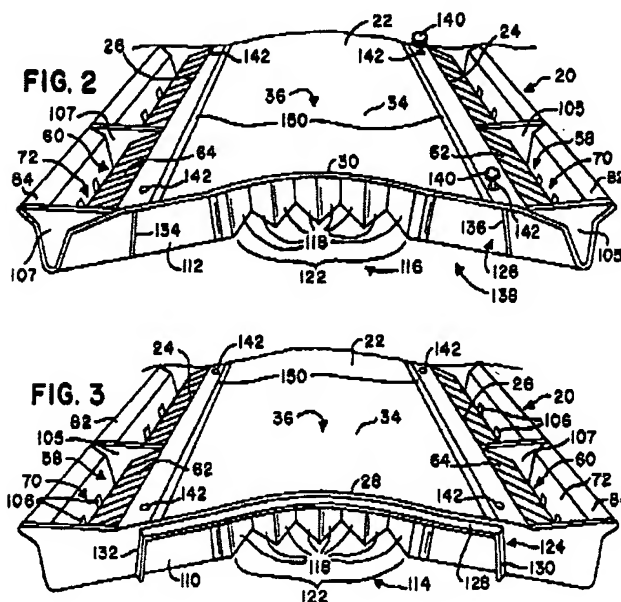
b. Claim 2. Smith '315 discloses a plurality of score lines A, B, and C across the top panel at spaced intervals (Fig. 5).

Claim Rejections - 35 USC § 103
As Previously Presented

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7-10, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Patent 5,772,502) in view of Morris (U.S. Patent 5,651,734).



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c. Claim 1. Smith discloses a ridge vent with an elongated flexible top panel (Column 2 Line 58) having a central portion 36 and edges 24 & 26 (Smith Fig. 2), wind baffles 82 & 84 defining an opening between the central section edges 24 & 26 and the baffles (See Figs. 2, 3, & 6), and a plurality of ribs 66 spanning said openings between the edges and baffles. Morris discloses a ridge vent with at least one score line, disclosed as a "cut line" (Figs. 3 & 4 below, Ref. 24), extending across the top panel to "facilitate manual separation" along the line (Column 3 Line 9). The Morris score line is such because it is a notch, scratch, or incision, specifically a cut or perforation in the material. A score line is generally added because it allows an installer to easily and efficiently segment a ridge vent segment to a desired length. Thus, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to have modified the Smith ridge vent with the score line taught by Morris because it allows an installer to easily and efficiently segment a ridge vent segment to a desired length.

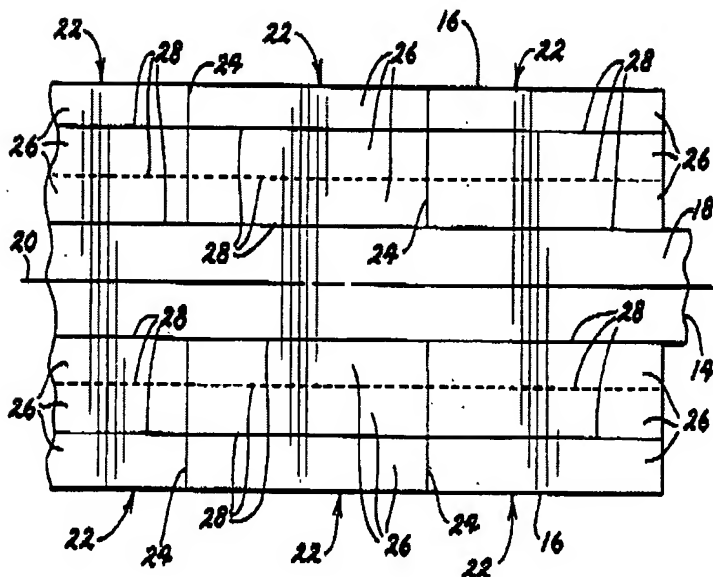


FIG. 3

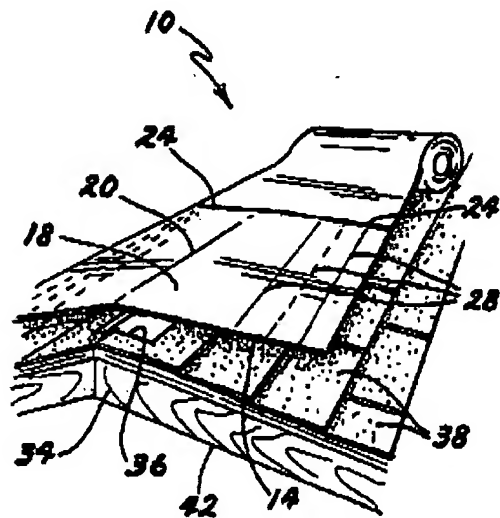


FIG. 4

d. Claim 2. The Smith/Morris combination discloses a plurality of score lines, referred to as “cut lines”, 24 extending across the top panel 18 at spaced intervals in that each pair of segmented portions 22 are separated by a cut line resulting in a spaced plurality (Figs. Above).

e. Claim 3. The Smith/Morris combination discloses a score line on the underside of the top panel in that the lines are “substantially perforated,” thus necessarily formed on both sides of the top panel 18 (Column 3 Line 11).

f. Claim 4. The Smith/Morris combination discloses all the elements of claim 3 including being configured to fold at the score line and then be torn along the line as a method of separation. Specifically, the Smith/Morris combination discloses a score line, while the examiner notes that it is well known in the art to fold an article at a score line to weaken and thus more easily, and perhaps more accurately, separate the article. Thus, since nothing in the prior art poses an obstacle to the folding action, the Smith/Morris combination is configured to be folded at the score line and, based on what is known in the art, will likely be folded on the score line for separation.

g. Claim 7. The Smith/Morris combination discloses all the elements of claim 1 including comprising a cutting guide formed in at least one baffle. The examiner notes that a score line is also necessarily a “cutting guide.” It would be obvious to one of ordinary skill in the art, at the time the invention was made, to separate the article using an apparatus (e.g. scissors or knife) as an alternative to solely by hand, thus the score line becomes a cutting guide. Furthermore, the combination teaches the score line formed

over the entire structure, to facilitate separation of the ridge vent, thus the lines are included on the baffles.

h. Claim 8. The Smith/Morris combination discloses all the elements of claim 7 including wherein the gutting guide comprises a notch (*See* above claim 7). By definition, a score line may include a notch, scratch, or incision.

i. Claim 9. The Smith/Morris combination discloses all the elements of claim 7 including a cutting guide offset from the score line, such that a lip is formed when the baffle is cut at the cutting guide and the top panel is separated at the score line. As described in claim 2, the combination discloses a plurality of spaced apart lines, specifically described in the claim as score lines. Claim 7 explains examiners reasoning that a “score line” is synonymous with “cutting guide”, in this case, for the above reasons. Regarding this claim, every other spaced apart plurality of lines will be construed to be a score line, whereas the lines separated by score lines are construed to be cutting guides. Furthermore, if the baffle is cut at a cutting line and the top panel is separated at a score line a resulting “lip” is formed since a broad interpretation of “lip” may be construed to include any resulting edge.

j. Claim 10. The Smith/Morris combination discloses all the elements of the invention including wherein the aligned cutting guide is formed in each wind baffle. The Smith/Morris combination discloses a cut line “extending entirely through the blank,” (Morris Column 3 Line 11, *See* also Figs. 3 & 4).

k. Claim 18. Smith discloses a ridge vent with an elongated flexible top panel (Column 2 Line 58) having a central portion 36 and edges 24 & 26 (Smith Fig. 2), wind

baffles 82 & 84 defining an opening between the central section edges 24 & 26 and the baffles (See Figs. 2, 3, & 6), a plurality of buttresses 105 & 107 extending from the top panel to the baffles, and a plurality of ribs 66 spanning said openings between the edges and baffles.

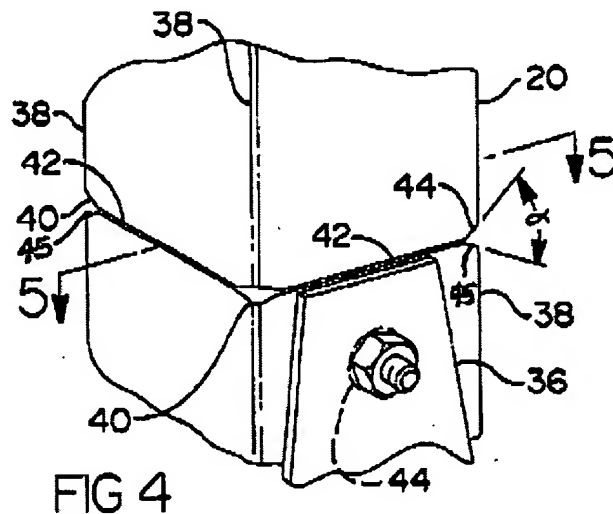
Morris discloses a ridge vent with at least one tear line, disclosed as a “cut line,” extending across the top panel to “facilitate manual separation” along the line (Column 3 Line 9), because it allows an installer to easily and efficiently segment a ridge vent to a desired length. Thus, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to have modified the Smith ridge vent with a score line taught by Morris because it allows an installer to easily and efficiently segment a ridge vent to a desired length.

The Smith/Morris combination discloses all the elements of claim 18 including comprising a cutting guide formed in at least one baffle. The examiner notes that a score line is also necessarily a “cutting guide,” for the reasons stated in the rejection of claim 7. Regarding this claim, every other spaced apart plurality of lines will be construed to be a score line, whereas the lines separated by score lines are construed to be cutting guides.

1. Claim 21. The Smith/Morris combination teaches all the elements of the invention, including wherein the tear line is a score line formed in the flexible top panel. Morris discloses a ridge vent with at least one score line, disclosed as a “cut line,” extending across the top panel to “facilitate manual separation” along the line (Column 3 Line 9). The Morris score line is such because it is a notch, scratch, or incision, specifically a cut or perforation in the material.

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3. Claims 5, 6, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Patent 5,772,502) in view of Morris (U.S. Patent 5,651,734) as applied to claims 1-4, 7-10, 18, and 21 above, and further in view of Hillstrom (U.S. Patent 6,560,906).



m. Claims 5 and 6. The Smith/Morris/Hillstrom combination teaches all the features of the invention as noted above in claim 1 except the vent further comprising a pair of bending notches formed at either end of the score line. Hillstrom teaches it is well known in the art to include notches 40 at either end of a score line 42 to provide an area of stress concentration that facilitates fracturing (*See Hillstrom Column 6 ¶ 1*). Thus, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to have modified the Smith/Morris combination with notches formed at either end of the score line as taught by Hillstrom to provide an area of stress concentration that facilitates fracturing.

n. Claim 19. The Smith/Morris combination teaches all the features of the invention as noted above in claim 18 except further comprising bending notches formed in the edges of the top panel. Hillstrom teaches it is well known in the art to include notches 40

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at either end of a score line 42 to provide an area of stress concentration that facilitates fracturing (*See Hillstrom Column 6 ¶ 1*). Thus, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to have modified the Smith/Morris combination with notches formed at either end of the score line as taught by Hillstrom to provide an area of stress concentration that facilitates fracturing.

4. Claims 11,12, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (U.S. Patent 5,772,502) in view of Morris (U.S. Patent 5,651,734) as applied to claims 1-4, 7-10, 18, and 21 above, and further in view of Logan et al. (U.S. Patent 5,491,936).

o. Claims 11 and 20. Smith/Morris combination discloses all the features of the invention as noted above in claim 7 except further comprising indicia on the baffle adjacent to the cutting line. Logan et al. teaches it is known in the art to use “cut here” indicia adjacent to a cut line to provide a quick and easy reference to installers. Thus, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to have modified the Smith/Morris combination with indicia adjacent to the cut line as taught by Logan et al. on the baffles to provide a quick and easy reference for installers.

p. Claim 12. The Smith/Morris/Logan combination teaches all the elements of the invention as noted in claim 11 above except specifically placing the indicia on the top lip of the baffles. Smith discloses a wind baffle formed with a top lip 82 & 84 (Smith Figs. 2, 3, & 6) whereon it would be obvious to place the cut indicia. The indicia placement would be obvious because the top lip of the baffle is the outermost edge of the apparatus and thus, the most logical point to begin separation of the articles. Obviously, cutting

instructions would provide the most benefit at the onset of separation as opposed to after a cut has been made.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Robinson et al. (U.S. Patent 6,684,581) teaches a cutting guide, Van Melle (U.S. Patent 5,613,619) teaches a notch at a score line.

Response to Arguments

6. Applicant's arguments filed 10/03/2007 have been fully considered but they are not persuasive.

Priority

q. The declaration must be consistent with applicant's intent to incorporate by reference, not claim priority to, U.S. Patents 6,371,847 and 6,227,963. Following the paragraph beginning "I hereby claim the benefit under Title 35, United States Code, §120 of..." the applicant has listed the above patents. The defect would be cured if applicant removed the patent numbers from the declaration. Therefore, the objection stands as originally presented.

§ 103 Rejection

r. Regarding the cut line: While cut lines of Morris '734 are shown extending only partially across the top panel, cut lines are also depicted traversing the entire top panel as shown in Fig. 4. The cut line extending across the entire panel likely aids in the process of cutting the vent to an appropriate length, as described in Col. 4 Lines 37-39.

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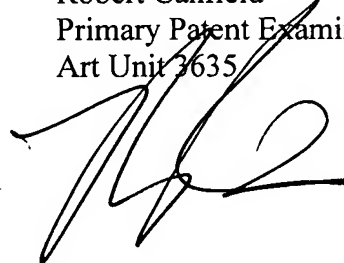
s. Regarding the combination: The prospect of cutting and thus using a score/cut line/guide, on a ridge vent is known in the art. Even in the case of a prefabricated vent segment with engaging ends, it is unlikely that the roof ridge distance would be wholly divisible by the length of the prefabricated vent. Therefore, cutting would be necessary for the vent and covering shingles to run the entire span of roof. Undoubtedly, any seal provided by the removed end would be lost, but this is not problematic in that seals need not extend entirely to the ends of the roof ridge. Typically the opening cut in the roof itself does not run the entire span of the ridge, so uncut prefabricated vents need only cover the actual opening. Furthermore, the Smith '502 reference includes support members 54 thereby maintaining structural integrity in the event of cutting. It would be obvious to one of ordinary skill in the art to include score lines on the Smith '504 vent as described in the previous action and disclosed in the newly added reference Smith '315.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Eppes whose telephone number is (571) 270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert Canfield
Primary Patent Examiner
Art Unit 3635

A handwritten signature in black ink, appearing to be 'RC', is written over the printed name and title of the examiner.

BE
1/7/2008